Single Bench

(1) C.F. (168) (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

W.P. No. 4379 /2004

PETITIONER : Kamal Singh Yadav, aged about 58 years, S/o. Shri Manohar Singh Yadav, Occupation:Retired Chhattisgarh Rajya Krishi Vipnan Board, Raipur, Chhattisgarh, R/o. Mahasamund, District Mahasamund, Chhattisgarh

VERSUS

RESPONDENTS :

1. State of Chhattisgarh, Through: The Secretary, Government of Chhattisgarh, Department of Agriculture, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh

P.R. No. 4375/04 Presented by Shri Anjay Agrawal dated 9/11/04

2. State of Madhya Pradesh, Through: The Secretary, Government of M.P. Department of Agriculture, Vallabh Bhawan, Bhopal, Madhya Pradesh

Certified to be true COPY 9/11/04 Clerk to A. G. Bilaspur

3. Chhattisgarh Rajya Krishi Vipnan Board, Through: The Managing Director, C.G. Rajya Krishi Vipnan Board, Purani Ganj Mandi Parisar, Raipur, Chhattisgarh

4. Madhya Pradesh Rajya Krishi Vipnan Board, Through: The Managing Director, M.P. Rajya Krishi Vipnan Board, Bhopal, Madhya Pradesh

5. Krishi Upaj Mandi Samiti, Through: The Secretary, Krishi Upaj Mandi Samiti Mahasamund, Chhattisgarh

(2)

(4)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(100)

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

11-5-2005

Miss Sharmila Singhai, counsel for the petitioner.

Mr. U.N.S. Deo, Govt. Advocate for the State/respondent No.1.

Mr. Sachin Singh Rajput, counsel for respondents No.2 & 4.

Mr. Ranbir Singh Marhas, counsel for respondents No.3 & 5.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India seeking relief to direct the respondents to pay retiral benefits, arrears of pay and all consequential benefits to the petitioner along with interest there of to the tune of 18% per annum.

Brief facts leading to filing of this writ petition are that the petitioner was working as Accountant in Krishi Upaj Mandi Samiti, Mahasamund. A criminal case about embezzlement was registered against the petitioner and charge sheet was filed for the commission of offence punishable under Section 409 of the I.P.C. However, at the time of filing of the charge sheet, vide order dated 31-7-1972 the services of the petitioner were terminated without conducting any enquiry. Later on, the criminal case was terminated into acquittal and the petitioner was acquitted vide judgment dated 11-2-1997, against which the State preferred an appeal before the High Court and the same was dismissed vide judgment dated 29-7-1999. Thereafter, the petitioner filed a representation before the Managing Director, Krishi Upaj Mandi Board

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

for reinstating him. On 2-12-1999 the petitioner was reinstated without back wages. On this, the petitioner preferred a writ petition before the Madhya Pradesh High Court and that writ petition was decided by the High Court vide order dated 4-10-2000 (Annexure P-3) directing the petitioner to make a representation before the Board and the Board was directed to decide the same. On this, the petitioner made a representation before the Board, the Board decided the representation vide Annexure P-4 and the Board while deciding the representation ordered that the petitioner is not entitled for back wages. In the mean time, on attaining the age of superannuation the petitioner retired in June, 2004. Against the order Annexure P-4 passed by the Krishi Upaj Mandi Board, the petitioner preferred an appeal before the State Government. The State Government vide its order dated 8-7-2004 (Annexure P-5) directed the Board to make payment of all emoluments, salary and other benefits to the petitioner. The Minister In-charge also passed similar order. But, inspite of that the Board is not making any payment to the petitioner.

Return has been filed on behalf of respondents No.1 & 3 mentioning therein that the State Government has no authority to pass the order and considering the representation of the petitioner in pursuance of the High Court's direction, the Board reached to the

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

conclusion that the petitioner is not entitled for back wages. Therefore, it has been prayed that the writ petition be dismissed.

I have heard learned counsel for the parties.

Mr. Ranbir Singh Marhas, learned counsel for respondents No.3 & 5 argued that on earlier occasion the petitioner approached the High Court, the High Court passed order that the petitioner should make a representation before the Board and in pursuance of that the petitioner made representation, the Board considered the same and reached to the conclusion that the petitioner is not entitled for any back wages. In the circumstances, if the petitioner was not satisfied with that order, then he ought to have preferred a writ petition before the High Court and the Government was not entitled to interfere with the order.

But, the arguments advanced by learned counsel for respondents No.3 & 5 is not in consonance with the provisions of the Chhattisgarh Krishi Upaj Mandi Adhiniyam, 1972 (hereinafter referred to as the Adhiniyam). Section 59 of the Adhiniyam envisages that "*the State Government may of its own motion or on an application made to it, call for and examine the proceedings of the Managing Director, for the purpose of satisfying himself or itself, as the case may be, as to the legality or propriety of any decision taken or order passed and as to the regularity of the proceedings of the committee, as the case may be. If in any case, it appears to the State Government that any such decision*

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

or order or proceeding so called for should be modified, annulled, reversed, or remitted for reconsideration he or it may pass such order thereon as he or it may deem fit".

Therefore, in view of this provision the State Government is empowered to call for the record and examine the same as to the legality and propriety of the decision. If the Government reaches to the conclusion that the order passed by the Managing Director, or committee should be modified, annulled, reversed or remitted for reconsideration then the Government is entitled to pass any order as it may deem fit.

Similarly, as per the provisions of Section 40-A of the Adhiniyam the State Government is entitled to give directions to the Board and Mandi Committees, and the Board and Mandi Committees are bound to comply with the directions issued by the State Government under sub-section (1).

Therefore, in view of the above provisions, I am of the opinion that there is no force in the arguments advanced by learned counsel for respondents No.3 & 5, and the Board and Committees are bound to obey the orders passed by the State Government. Even otherwise, it is admitted position that merely on registering a criminal case without holding regular enquiry, the petitioner was removed from service on 31-7-1972, and later on charge sheet was filed against the petitioner in

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आदेश पत्रक (पूर्वानुबद्ध)

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which he was acquitted by the trial Court and which was confirmed by the High Court, even no enquiry was instituted and conducted against the petitioner for any misconduct. Therefore, the petitioner was removed for no fault on his part and ultimately, he was acquitted up to the High Court then he was reinstated. Hence, in this aspect also, the petitioner is entitled for all back wages and benefits as were admissible to him.

In the circumstances, the petitioner's petition is liable to be allowed and the same is allowed. Respondents No.3 & 5 are directed to make payment of all retiral benefits and back wages as admissible to the petitioner within a period of two months from the date of receipt of a copy of this order, failing which, the petitioner will also be entitled for interest on the whole amount at the rate of 6% per annum from the date from which the amount was admissible to him.

In view of this order, M.(W.)P.No.4730/2004, I.A.Nos.9133/2004 and 9543/2004 stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Soma

16.5.05
24.5.05
10.6.05